

S/N 10/663,153

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Feldman et al.	Examiner:	A. Noguerola
Serial No.:	10/663,153	Group Art Unit:	3729
Filed:	September 15, 2003	Docket No.:	12008.32USC7
		Confirmation No.:	2148
Title:	SMALL VOLUME IN VITRO ANALYTE SENSOR		

---

**COMMUNICATION REGARDING FORM 1449**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Facts

1. A first Office Action on the merits was mailed on April 13, 2007.
2. An Amendment responsive to a non-final Office Action was submitted on September 13, 2007.
3. A Supplemental Information Disclosure Statement (IDS) was electronically filed with the United States Patent and Trademark Office on October 25, 2007. The supplemental IDS includes a two page Form 1449 including a listing of 29 references. The Supplemental IDS is enclosed as Exhibit A.
4. The \$180 fee for submission of an IDS under 37 CFR 1.17(p) was paid as shown on the Electronic Patent Application Fee Transmittal. The Electronic Patent Application Fee Transmittal is enclosed as Exhibit B.
5. An Electronic Acknowledgement Receipt was issued by the United States Patent and Trademark office indicating that the Information Disclosure Statement, all foreign patent documents, and all other documents were received on October 25, 2007. The Electronic Acknowledgement Receipt is enclosed as Exhibit C.

6. A Notice of Allowance and Fees Due was mailed on October 30, 2007. The Notice of Allowance included a Notice of References Cited but did not include an initialed and signed copy of the two page Form 1449 submitted on October 25, 2007. The Notice of Allowance is enclosed as Exhibit D.

7. The undersigned confirms a telephone call with the Examiner on January 25, 2008. After looking into this matter, the Examiner believes there may been delays at the Patent Office scanning certain items but believes the applicants timely submitted documents noted about. Notwithstanding this, the Examiner believes it is unlikely he could review the IDS and references before the scheduled issue fee due date. With regret, he recommended filing an RCE.

#### Remarks

Applicant respectfully requests consideration of the references cited in the Supplemental IDS and accompanying Form 1449 submitted on October 25, 2007. These references should be considered because the Supplemental IDS was submitted on October 25, 2007. This date was after the mailing date of the first Office Action on the merits (April 13, 2007) but before the mailing date of the Notice of Allowance (October 30, 2007).

37 CFR 1.97(c) states that "[a]n information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of . . . a notice of allowance under §1.311 . . . and it is accompanied by one of: (1) The statement specified in paragraph (e) of this section; or (2) The fee set forth in §1.17(p).

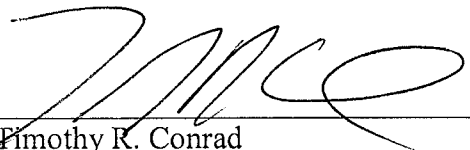
The information disclosure statement was filed before the mailing date of the notice of allowance and was accompanied by the \$180 fee set forth in §1.17(p). Therefore, consideration of the information disclosure statement and return of an initialed and signed copy is respectfully requested.

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

Date:

1/25/08

  
\_\_\_\_\_  
Timothy R. Conrad  
Reg. No. 30,164  
TRC/BAT:ae

